

QUID NOVI

Journal des étudiant-e-s
en droit de l'université McGill

McGill Law's
Weekly Student Newspaper

Volume 33, n°9
15 novembre 2011 | November 15th 2011





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QUID NOVI

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WHAT'S INSIDE? QUEL EST LE CONTENU?

ÉDITO	3
PROFESSIONAL CONDUCT IN THE FACULTY	4
IN SEARCH OF A "MUTUALLY FAIR SOLUTION"	4
RESPONSE TO AN ATTEMPT TO JUSTIFY THE UNJUSTIFIABLE	5
REPLY TO PATRICIA NOVA	6
FRAIS DE SCOLARITÉ	8
UNINTENDED EFFECTS OF HUMOUR: THE IMPORTANCE OF TAKING RESPONSIBILITY	8
HAS A FORUM REALLY BEEN OPENED?	10
POLITIQUE LINGUISTIQUE	11
FROM THE DESK OF THE OMBUDSMAN	12
CHRONIQUES FACULTAIRES	16
UNE RÉPONSE À FRANCESCA TADDEO	18
SPEED-MEET 2011	19
THE OMNIBUS CRIME BILL IS A MESS	20
LIBRARY NEWS	21
OVERHEARD AT THE FAC	22

WANT TO TALK? TU VEUX T'EXPRIMER?

Envoyez vos commentaires ou articles avant jeudi 17h à l'adresse : quid.law@mcgill.ca

Toute contribution doit indiquer le nom de l'auteur, son année d'étude ainsi qu'un titre pour l'article. L'article ne sera publiée qu'à la discréction du comité de rédaction, qui

basera sa décision sur la politique de rédaction.

Contributions should preferably be submitted as a .doc attachment (and not, for instance, a ".docx").

EDITORIAL

We would like to once again address the Faculty on the issue of the cartoon by Ms. Nova that appeared in our November 1 issue. The situation has posed particular editorial challenges and our goal as Editors-in-Chief is to find and implement ways to better deal with similar situations in the future. We are also concerned with fostering an amicable environment within our community.

We have asked Charlie Feldman, who graduated in May 2011, to return in his role as ombudsman, as an independent third party, to look at the matter and make suggestions for how the Quid can improve its publishing practices in light of this situation. His review of the current situation is at p.12. We invite you to read it if you wish to further engage with Quid Novi policy concerns. If you have any questions or comments about the situation, feel free to contact Charlie Feldman directly at quid.charlie@gmail.com.

By the time this issue comes out, us Editors-in-Chief, the author of the cartoon and the Aboriginal Law Students' Association will have sat down together to discuss the situation on Monday, November 14th. We believe that this is the appropriate forum for discussion. Although the Quid welcomes debate—and we feel that the articles appearing in this issue provide valuable insight into the question—at some point, certain debates are best resolved in more conciliatory ways than a back-and-forth in our pages.

Finally, last Friday, we received a large number of responses to the cartoon from some outside the Faculty after the submission deadline. We decided to privilege the voices of our peers from McGill Law. For more on outside submissions, see the ombudsman's piece on p.12.

NEXT WEEK!

The Quid's last issue before the holidays will hit news stands on November 22, 2011. Vous avez des opinions à propos de la hausse des frais de scolarité? Sur les examens à venir? Exprimez-vous avant la fin de l'année 2011! Envoyez-nous vos contributions avant le 17 novembre à 17h00.

EMILY
ELDER

I would like to express some thoughts and concerns that go beyond the recent cartoon and the responses that followed, to the impact on us as a community. The two principles that I draw on here are social inclusion and collegiality. Let me make my position crystal clear: I urge us to act in ways that facilitate each others' learning and our sense of being in a shared educational (soon, professional) community, of being in respectful and responsible proximity to each other.

So, the heart of the matter: How do we want to relate to each other as colleagues? While I understand the role of humor in dealing with difficult subjects, I invite us to think through what it means to share space with a group of people. Remember that many McGill law students come to this Faculty motivated by social justice and equity concerns. We want to change the world or at the very least we want to be appropriately respectful advocates and peers. Remember too the axiom, "Think globally, act locally." If each moment offers us choice - to act or not to act, to respond with compassion or with defensiveness - how do we exercise that choice? Do we choose to act in solidarity with colleagues and peers from

historically - or continuously - excluded groups? When we err - for, as humans we will - how do we make amends for our mistakes?

Some discussions of offended persons' responses get framed in terms of their unreasonable "sensitivities". I would like to draw an analogy in order to question this kind of characterization. A female law student is at a law firm event talking to one of the major partners of the firm about her work and educational history. Upon hearing of a legally related summer job she received, he asks her (in a "joking" / lascivious tone) "And what did you do to get that job?"

Readers, please pause and ask yourselves: If offended or humiliated, is our law colleague (because that is what this woman is) being "overly-sensitive"? What if she is a sexual assault survivor, or has experienced other incidents of harassment and exclusion? I suggest that personal history is relevant to her response.

Any of us who have experienced exclusion on the basis of real or perceived group membership - be that gender, sexual

orientation, "race," ability or any other - know the hot shame of having stereotypes raised. Such stereotypes can be invisible to people who stand on the privileged side of the relevant identity axis. There are various ways to respond when our privilege and its inevitable accompanying ignorance are brought to our attention. I submit that, as colleagues, we should strive to listen and be receptive to the broad range of experiences from all members of our community and to consider adjusting our behavior accordingly. This would serve us well in our future professional relationships with both colleagues and clients, to whom we will have ethical obligations as lawyers.

To conclude: What kind of Community are We?

We are a community. We will continue to be each others' colleagues, employers, employees, adversaries, friends and possibly romantic partners throughout our lives. I love, trust and appreciate many people in this Faculty, and - call me idealistic - I would like to love, trust and appreciate us all. I ask you: What kind of colleagues do we want to be for each other?

MARI
MAIMETS

On November 10, I witnessed a conversation between Joey Flowers and Patricia Nova regarding the cartoon from the November 1 issue of Quid Novi. The conversation began with Joey trying to express to Ms. Nova the hurt and anger that the cartoon had caused him, and

quickly escalated. At the time, no resolution was reached.

I hope, however, that the door to a "mutually fair solution" might not yet be closed.

In the wake of this incident, I invite my friends and colleagues in our community to join in examining the following question: When someone tells me that something I have done has hurt them, how can I respond?

IN SEARCH OF A "MUTUALLY FAIR SOLUTION"

We all say and do things that affect those around us, and we all, from time to time, cross lines and cause pain to people that we care about. When the effects of our actions are brought to our attention, we must choose how to respond. We can ignore, defend, or counter. Or we can listen and try to empathize. Whether or not we ultimately alter our position, we can try to see the situation from another point of view. I would hope that our faculty is a place where we choose to seek understanding.

In their responses, Scott Horne and Eden Alexander went to lengths to find the

most benign interpretation they could of Ms. Nova's cartoon, seeking to consider the issue from another point of view, and giving Ms. Nova the benefit of the doubt. In her response to Scott's piece, however (she did not respond to either Joey or Eden directly), Ms. Nova insisted that the "charitable" interpretation was the single correct interpretation, and dismissed the other, uglier but arguably more obvious interpretation as "a stretch".

The publication of Ms. Nova's cartoon in the Quid has created a particularly challenging situation because of the strong emotions it has provoked for

Aboriginal members of the faculty community and for members of the Aboriginal community at large. It has hurt and offended them, and I do not think it is a stretch to say that it has caused more harm than good in the faculty. Yes, it has generated discussion, but it has also caused pain.

I hope that we may find a way to transform this painful experience into something that will make our community stronger. Perhaps then, in time, we will all be able to look back on this experience and laugh.

KATRINA
PEDDLE

Law IV

RESPONSE TO AN ATTEMPT TO JUSTIFY THE UNJUSTIFIABLE

Dear Ms. Nova,

I was surprised to read your response to Scott Horne's article this week. As an Aboriginal student in this Faculty, I really wish you had opted for the moral high road. Publishing a racist cartoon does not create meaningful debate. Your reasoning mirrors that of the Jyllands-Posten newspaper's defence of its publication of cartoons of the prophet Mohammed in 2005. They, like you, argued that the purpose of the cartoon was to spark a debate. I cannot agree with this assertion.

You attempt to frame your cartoon as a debate, but it is more accurately characterized as an unfortunate and harmful misstep that should be resolved with self-reflection. The situation, and Scott Horne's pointed critique of it, merit

acknowledgment of the power operating behind the caricature you provided. This is true regardless of what you had in mind when you sat down with pen in hand.

While I know you meant no harm, I can tell you plainly that your response in last week's Quid served to exacerbate the problem that your cartoon placed in our laps. There is a better way forward. I urge you to think about the impact skirting the issue has on all of us, and the motivations that lie behind your decision to continue to justify what is clearly not justifiable.

Best,
Katrina Peddle

JOSEPH
PAUL
FLOWERS

REPLY TO PATRICIA NOVA

Patricia Nova's cartoon (Quid Novi 33:7 at 28), and her reply (Quid Novi 33:8 at 5-6) left me dissatisfied. As an Indigenous law student, I feel a need to make my voice heard on this matter.

First: your cartoon. Though it is a challenging task to rationally deconstruct the elements of an offensive act, it is not impossible.

(1) Inaccurate and inappropriate visual representation of Indigenous Peoples. Your cartoon depicts the Indigenous individuals who signed treaties as wearing out-dated, stereotypical, cowboys-and-Indians style clothing and weapons. Your lack of knowledge of the treaty process is evident, since there are a variety of treaties between Indigenous Peoples and settlers, signed in different times, places, and circumstances. In 2005, the individuals who brought into existence the Labrador Inuit Land Claims Agreement (a treaty) certainly weren't wearing this type of clothing.

(2) Suggesting Indigenous people are people who were tricked into treaties with settler populations. You suggest that "treaties were instruments of trickery exacted on a trusting and unsuspecting group." How does the JBNQA (a treaty) fit into this framework? Inuit and Cree were certainly not trusting and unsuspecting in 1973 when Hydro-Quebec arrived and decided to flood the land. It was due to their lack of trust and deep suspicion of Quebec and Canada's objectives that they so

expertly harnessed the power of the Calder decision in order to stop a hyper-Nationalist hydro development which "was regarded not only as an inexpensive, reliable source of energy in southern Quebec, but as a symbol, capable of galvanizing energy in southern Quebec towards economic and social independence."¹ To suggest that my Elders (or, for example, the Tlicho signatories in 2002, or the Tsawwassen signatories in 2007, or the Nisga'a signatories in 1999) were trusting and unsuspecting is an insult to their passion, pride, dedication, focus, vision, and hard work to negotiate a comprehensive treaty with the provincial and federal governments. I would suggest cautious reflection instead of the cavalier dismissal of the agency of our Indigenous ancestors who signed the numbered and other pre-modern treaties. Read "Rethinking Collaboration: Working the Indigenous-Colonizer Hyphen" by Allison Jones with Kuni Jenkins for an interesting perspective on questions of power relations and the myth of colonizer trickery when treating with Indigenous peoples.

(3) "Kill whitey." My wife is "white" and I love her dearly. I don't see your point with this component of your cartoon; it is confusing. On its face, I find it insulting to suggest that Indigenous people want to kill "whities". This fails to reconcile Indigenous and non-Indigenous peoples in a productive and meaningful way. It doesn't help the

cause which you claim to care about. Instead of highlighting a violent past between Indigenous-settler relations (which is only partially true), it is possible to offer a constructive dialogue on how we can better work together.

(4) The idea that by offering this comic you are encouraging productive discussion. You succeeded in sparking discussion. But I ask you, what is this discussion about? Precisely, what were the issues that needed discussion which heretofore were silent but which now you have brought to the surface? In my case, I have initiated discussion on improving education policy through my research fellowship. I address issues which flow from unsatisfactory execution of treaty rights under the JBNQA. I have done this in a way that examines the lived experience of those who benefit from the policy, and offer concrete suggestions on how to improve it.

(5) The fact that I have to explain this in the first place. In a public setting at the Faculty, I had a strongly irrational and illogical reaction to your cartoon and your subsequent actions. It triggered anger, sadness, frustration (see Mari Maimets' submission in this week's Quid). Your failure to publicly address my or Eden's articles in last week's Quid was further angering, saddening, and frustrating. You didn't recognize that your poorly executed attempt at humour deeply saddened, angered, and frustrated individuals in our community. Your poorly executed attempt to justify it added fuel to the

¹ Susan Gray Drummond, *Incorporating the Familiar: an investigation into legal sensibilities in Nunavik* (Montreal: McGill-Queen's University Press, 1997) at 48.

fire. Your requirement that I logically deconstruct your piece when you clearly saw that I was in a highly charged emotional state compounded the hurt. You insulted me, and asked me to talk about it on your terms. This episode has been deeply troubling. It has sucked up a lot of my time. I feel pressure to reply, since I am one of a handful (literally, you can count us on one hand) of Indigenous law students at the Faculty. Besides the very onerous obligations I have in terms of studying for finals, writing papers, preparing for a mock trial, and living a rich life of extra-curricular activities largely revolving around volunteering my services in the productive analysis and improvement of policies and programs affecting Indigenous people in Canada, I now I feel an obligation to engage in a tiresome and draining discussion about Indigenous-settler relations. I thought that in 2011 we wouldn't need to have this kind of sensitivity training. This process gave rise to significant emotional stress, but I have worked past this in an attempt to relate to you on your proposed terms: intellectually careful analysis, backed up with careful reasoning.

We had a second conversation on Thursday, which I sincerely felt was a genuine effort on your part and mine to heal from this incident. In an attempt to bridge our misunderstanding, I came to you on your terms, since you demanded that I do so. This demand is the same one that is placed on me when I try to explain the significance of treaty rights to non-Indigenous peoples. While many Indigenous peoples have different ways of justifying claims, Euro-

Canadian legal and social structures require Indigenous peoples to submit written, carefully crafted argument claims when arguing. This epistemology is foreign to many Indigenous peoples, but as your demand illustrates, it is incumbent upon us Indigenous students to learn these methods in order to engage in the "constructive destruction of the status quo" as my friend Zebedee Nungak would say. I sincerely thank you for helping me realize that and live that reality.

Second: your defence of the cartoon. You point out your experience with Indigenous Peoples, and use that to justify your cartoon. In one broad stroke, you unreflectively refer to the "White, liberal mentality that runs rampant in our society" and how this results, as Andrea Smith suggests, in the Indigenous Peoples being assisted in their plight by PhDs and MSWs. I assume that you are suggesting that the neo-colonial project is nurtured by well-intentioned, well-educated outsiders who claim to know what's best for Indigenous peoples, and approach Indigenous Peoples on the neo-colonizers' terms. Obvious point: You are registered in a LL.B./B.C.L. program at a prestigious university. What responsibility do you have to inform yourself about issues before you comment on them? The way you handled this is precisely the kind of hyper-generalized, stereotypical thinking that stops your comments from being of any productive value.

You offer words of Mr. Drew Hayden Taylor, who said that "humour is the WD-40 of healing." Recently when I was at the Truth and Reconciliation Commission

National Event in Halifax, I experienced the healing power of tears, too. Listening to my father and my aunt speak of the discrimination and hurt that they suffered when he was belittled in the foreign school that he attended was a deeply touching and moving experience. It also reminded me that the lived reality of Indigenous students today is in some respects not too different from the cultural genocide of our parents', grandparents', great-grandparents' generations. Ecclesiastes 3:1 & 4 suggests that "to every thing there is a season, and a time to every purpose under the heaven... A time to weep, and a time to laugh...." (Aside: I look forward to the confusion created by an Indigenous person quoting from The Bible.) Perhaps the author could have added a line about how to create conditions for laughter.

It would be irresponsible of me to write without offering thoughts on actions which will foster reconciliation. When I recognize that a relationship I am in is no longer a peaceful one, I take my share of the responsibility to make it peaceful again. I believe that if a person with whom I have a relationship is not at peace because of something I said or did, then our relationship is not at peace. If our relationship is not at peace, then I am not at peace. I take it upon myself to do what I can to heal from that. Usually, this means listening to the person on his or her terms. It is sometimes a long and difficult process, but the results are worth it.

DOMINIQUE
BOUTIN

40 étudiant-e-s de la Faculté de droit ont pris part à la manifestation nationale contre la hausse des frais de scolarité le 10 novembre dernier. Le 17 mars 2011, le gouvernement Charest déposait un budget provincial contenant une hausse massive des frais de scolarité; près de 1625 \$ en cinq ans, au rythme de 325 \$ de plus par année, cumulatifs pendant cinq ans. Cette hausse, combinée à la précédente, de 500 \$ supplémentaires entre 2007 et 2012, constitue une augmentation de la facture étudiante de 127 %, c'est-à-dire que les frais de scolarité auront plus que doublé en 2017. Cette hausse touchera également les étudiant-e-s hors province et les étudiant-e-s internationaux.

Une telle augmentation aura des répercussions majeures sur la vie des étudiantes et des étudiants, ainsi que leurs familles. En effet, en plus d'être une atteinte majeure à l'accès à l'éducation universitaire, ce n'est plus la capacité de réussir qui fait la différence entre l'admission et le refus, mais la

FRAIS DE SCOLARITÉ

taille du portefeuille. La hausse des frais de scolarité aura aussi des impacts sur l'endettement étudiant, déjà situé, en moyenne, à 14 000 \$ au Québec à la fin d'un baccalauréat. Une augmentation de cet endettement est tout simplement irresponsable quand on connaît la situation économique des étudiantes et des étudiants.



NELLY
MARCOUX

Dear Ms. Nova,

Having followed the exchanges surrounding the recent publication of your controversial cartoon, and being among the people who initially interpreted it as a misguided, distasteful but a potentially sincere attempt to offer a critique of treaty-making in the context of the colonial enterprise, I was surprised and disappointed by both the tone of your response and

its emphasis on argumentation in defense of said cartoon, to the expense of any form of learning or acknowledgement of mistake. More specifically, I was saddened to find no apology to those people who have been hurt, albeit inadvertently, by it.

There are many aspects of your response which are questionable in my view: a title which, from the onset, potentially suggests irritation with some of the

reactions generated by your cartoon and the ensuing debate; the fact that your text fails to address Mr. Horne's basic critique and focuses on attacking his most hyperbolic forms of expression; the questionable value of invoking your own experiences with indigenous issues as a guarantee of the relevance and appropriateness of your cartoon as an expression of your critique; your decontextualized appeal to humour as a survival strategy; your debatable assertion that the cartoon's dubious satirical value was justified for "opening a forum," "bringing important issues to the forefront" and "provoking thought" (as well as its underlying assumption that there are not currently more appropriate, inclusive and constructive forums which currently fulfill these goals at the Faculty). However, I think it is less useful to linger on these various arguments than to reflect on your overall approach to this situation.

A few students in the Faculty recently had the opportunity to attend the Truth and Reconciliation Commission of Canada's Atlantic National Event, which took place in Halifax from October 26 to 29. This experience was extremely significant for me. Three days spent listening to people sharing the stories from their time spent in residential schools helped me understand a little better what their experiences must have been like. Most importantly, it helped me start to grasp the depth of their pain and the extent and significance of the harm done to their communities. The value of this experience was that it occurred beyond the intellectual level, through the heart. One of the things that was most striking to me was the extent to which, although memories of the most egregious forms of abuse were very present throughout the event, memories of "lesser" forms of abuse such as humiliations and insults also occupied a prominent place in people's recollection of their experiences. During those three days, we witnessed elders and grown women and men recall and sometimes painfully relive, decades later, daily experiences of racism, degradation, psychological abuse, insults and humiliation. I had never fully realized how destructive these particular forms of abuse have proven to be for the survivors and their communities, and the extent to which the individual and collective impacts of this abuse are still felt to this day. It was also an occasion to experience how the acknowledgement and recognition of survivors' pain and lived experience can function as a vital step on the path to healing.

I am telling this story to make the point that the cartoon was not published in a vacuum. Its imagery and content have the potential to painfully resonate in light of individual and collective experiences. But, even if we made abstraction of this particular context, the fact is, Ms. Nova, that your cartoon was hurtful to some people. "Laughter through tears" indeed attests to the strength and resilience of oppressed peoples around the world, including those members of your family. The power of humour in this type of context, however, stems from the fact that it is generated by those whose very survival or integrity is at stake. Your cartoon was not published in comparable circumstances and for many of us, did not create laughter. For some of us, it only added more pain to that which is created by an ongoing legacy of assimilation, humiliation and oppression.

In light of this context, I believe you must ask yourself whether the approach you adopted in producing your highly intellectualized public response to criticisms about your cartoon is enlightened. You have the choice to engage with these criticisms in a removed and adversarial fashion, or as an opportunity to open yourself to learn (and help the rest of us learn) from this experience. As individuals concerned with Indigenous issues in general but also with the well-being of our fellow students and community, we must ask ourselves whether our responsibility to others stops where we find sufficient theoretical justification for our words and actions, or whether we have the responsibility to sincerely and courageously listen to and acknowledge the voices articulating the unintended and/or unforeseen effects of these words or actions. Will our solidarity towards one another remain in the theoretical and intellectual realm, or will it be lived and expressed through our daily relationships to one another and the way we acknowledge and respond to each other's experiences?

Most importantly, Ms. Nova, I believe you should ask yourself the following question: what about this cartoon is so important that it prevents you from acknowledging the harm it may have caused to others and simply apologizing for making a mistake?



**JOANNIE
JACOB**

HAS A FORUM REALLY BEEN OPENED?

This is a comment on "Oh Fer Lawfing out Lawd" by Patricia Nova and on the critiques that ensued.

Ms. Nova mentioned in the conclusion of her article that, at least, the controversy has opened a forum and that in the end, this is good enough for her. However, having read her reply, I question whether she herself is honestly open to a real discussion.

As I understood it, her position on the controversy caused by her cartoon is that we (the readers) all understood her message and that the only problem is that we are failing to appreciate her use of humor as a powerful tool of critique. Moreover, she tries to deny that her cartoon conveyed stereotypes of aboriginal people by quoting a few symposiums she attended. To me, this reflects an attempt to shut down the discussion or, at least, to divert and minimize critique.

Now, let me start by saying that I understand why Ms. Nova reply might have been so defensive. I do believe her when she says that she is interested in indigenous issues. I also believe that she probably did not intend to make any racist comments on aboriginal people through her cartoon. Keeping that in mind, I can understand that her first reaction, being informed of some of the critiques that had been formulated, was one of surprise. I do not know how long after reading the critiques she started formulating her reply, but I do think that taking a step back could have helped her reply to them in a more constructive manner. First, I was myself confused and a bit insulted reading her cartoon for the first time, and it did take me a lot of time before I could even guess what she was trying to convey

through it. I think that it is insulting for her to assume that the readers making the critiques were in bad faith by "pretending" not to understand the meaning of her use of humor. Second, while I do understand now that her cartoon was meant to make some comment on the bad effects of treaties on aboriginal people, I also believe that it was accompanied by a depiction of hurtful stereotypes. Surely, Ms. Nova was unaware of that and did put some time into thinking about the cartoon. However, I think we have to accept that each of us, even if we try to be as sensitive and informed as possible on issues like racism, can be holding stereotypes. When confronted to critiques to a comment we make or a cartoon we draw, we should, in due time, take a step back and try to think whether maybe we did hold such a stereotype or misconception. Granted, it is a very hard thing to do, and it is a real exercise in humility, but that is what will make you a better citizen and will help you gain the respect of your peers. Third, I do take issue with Ms. Nova tactic of answering the critique of her cartoon by defending her knowledge of indigenous issues. While I have no doubt that she has read a lot about the topic and assisted to many talks, I am not sure how the examples she gave show us that she has a "contemporary, empirical, grass-rooted nature". What does she mean by grassroot? Has she lived in an aboriginal community? Has she volunteered or worked with organizations ran by First Nations, Métis or Inuit people? Empirical is also a very scientific term; has she led some rigorous research on these issues? Regardless of whether her claim is founded, I think that it is always dangerous, as students, to assume that we have acquired a level of knowledge on an issue that shields us from critique.

Even experts can make mistakes. As law student, it is important to remind ourselves that a good dose of humility and self-critique is always healthy. Moreover, when responding to critique coming in part from students having family or being themselves First Nations, Métis or Inuit, the claim to knowledge on these issues is tricky. For this claim to work as a rebuttal, there must be an implied assertion that either 1- said students understood and agree with what you said and are making their critique in bad faith; or 2- that they know less than you do on the issue. The latter is especially problematic in this context, considering Canada's history of taking a very patriarchal approach and showing "ignorant savages" what is right and true. While I am sure that this was not Ms. Nova's intention, it is always delicate for a non-aboriginal student to teach aboriginal student about their history.

All that being said, I am not sure whether it was an entirely bad thing that Ms. Nova's cartoon was published. Herself, as well as others, were obviously not aware of the underlying stereotypes this cartoon depicted. Had she never make this cartoon, or had it never been published, perhaps she would not have been confronted so directly with her stereotypes. I think that it is important for every student and for the faculty as a whole to make sure that there are spaces open for constructive discussion and the uncovering of stereotypes. I am not sure whether the Quid is the space that is most conducive to such constructive discussion, but at least it may launch some discussion. In any case, when such an opinion is voiced, in the Quid or elsewhere, I think that it is the responsibility for each student feeling concerned about it to answer in a

constructive way. While I am not saying that any of the critiques published last week did that, it would be dangerous for students in general to respond to Ms. Nova by calling her a racist and/or trying to shut her down. This risk, if anything, to push her toward a more defensive approach. What might help is to offer to have a discussion with her, away from the

"spotlight", on the topic. In this sense, I salute in particular the offer made by Eden Alexander; it shows a true maturity in addressing this controversy. Moreover, I think that it would be very important for the faculty to continue offering more classes challenging stereotypes and commonly held views. Finally, I strongly encourage students to read the following

article, which might make you think about stereotypes you may be holding: Shin Imai, "A Counter-Pedagogy for Social Justice: Core Skills for Community Based Lawyering" (2002) 9 Clinical Law Review pp. 195-227.

*Coprésidente de première année et Vice-Président
du Comité sur les langues officielles*



**DOMINIC
DIFRUSCIO**

POLITIQUE LINGUISTIQUE

Chers amis et amies,

Depuis le début de cette année scolaire, plusieurs personnes ont partagé avec moi leurs préoccupations concernant la politique linguistique de notre faculté. Ces préoccupations m'ont incité à ajouter le respect pour le bilinguisme comme un pilier important de ma plate-forme électorale en tant que candidat pour le poste du coprésident de première année. Malgré le fait que le programme de droit à McGill ait été réorganisé en 1999 pour offrir « une approche transsystémique à la formation juridique », la politique linguistique n'a pas été mise à jour depuis 1992. À mon avis, cette politique ne reflète donc pas la nature de notre programme « passivement bilingue » et elle ne répond pas adéquatement aux besoins linguistiques du corps étudiant.

I am proud to say that on Monday, November 7, 2011, the LSA Council adopted my resolution to establish an LSA Committee on Official Languages. This committee, which will be responsible for reviewing the Faculty's Language Policy, will begin its consultations with students early in the winter semester. Dean Jutras has expressed his support for the LSA to undertake this initiative. This committee will be chaired by VP Academic Georgia Papadolias, with LSA President Catherine Coursol and myself serving as Vice-Chairs.

Pour les étudiants qui souhaitent participer aux consultations, les renseignements concernant la première réunion seront diffusés au début du mois de janvier prochain. Un exemplaire de la politique linguistique de 1992 est aussi disponible sur demande.

I look forward to an informed and productive discussion with all students about reviewing our Language Policy. Should you have any questions about this process, please do not hesitate to contact myself, Georgia or Catherine.

Bien à vous,

Dominic DiFruscio
Coprésidente de première année et
Vice-Président du Comité sur les langues officielles

CHARLIE
FELDMAN

FROM THE DESK OF THE OMBUDSMAN

Dear Reader,

In light of the current controversy surrounding the publication of Ms. Nova's cartoon, I have been asked by the current Editors-in-Chiefs to reprise my role as Quid Ombudsman. For those new to the Faculty or new to the Quid, I previously served in this capacity during the 2010-2011 year, having also worked at the Quid at various points as a Staff Writer, Layout Editor, and Associate Editor-in-Chief.

The Ombudsman role is simple: Listen to student and Faculty concerns about the Quid Novi, comment on situations involving the Quid, and make recommendations as necessary. The Ombudsman does not report to the Editors-in-Chief; he or she is independent and responsible only to readers within the Faculty.

In this instance, my mandate is to address the issue at hand as it relates to questions of the Quid's scope, mandate, and publishing practices. You may certainly disagree with my findings and conclusions, and I invite you to make your views known to me either via article or e-mail quid.charlie@gmail.com.

It is unfortunate that this article has to be written before the Quid Editors-in-Chief are to sit down with students involved in this issue (on Monday, after this will have gone to press for Tuesday). I certainly hope it is a productive meeting, and I regret that I cannot be there.

With all that out of the way, I will begin by addressing the most current events first:

ISSUE: NON-MCGILL SUBMISSIONS

Up to – but mostly after – the submission deadline (extensions were given to some McGill students who requested them), a number of submissions on this matter came in from students with no connection to McGill. The current Quid Novi Policy and Operating Guidelines (hereinafter 'Policy') does not specify who may write in the Quid. This is problematic.

The Quid Novi is the *student* newspaper of the Faculty of Law. There are not the resources in place (both in terms of people and finances) for this publication to publish everything that conforms to content guidelines, the only codified limits on publication. While I do not feel an absolute ban on outside voices is appropriate, I do believe a change should be made in this regard. Simply put, we have enough diversity of student voices in this regard that our pages need not be filled with comments from outside to have multiple perspectives repre-

sented. Further, the intended audience of the Quid is limited. Certainly, we put issues on the web in PDF (a practice that has been of perennial concern), but I truly believe authors intend their submissions to remain within the McGill Law family.

Of course, I am sympathetic that we do not live in a vacuum and the content on our pages has ramifications beyond the walls of New Chancellor Day Hall. That said, everyone is free to comment anywhere on the Internet; I don't believe the Quid's pages (paid mostly by your LSA fees) should be serving a much larger community than that with ties to 3644 Peel.

Recommendation 1: The Quid's Policy should be changed to specify that only current and former students and professors of McGill's Faculty of Law be permitted to submit articles for publication. However, the Editors-in-Chief should retain discretion in this regard to allow for solicited submissions, ads that otherwise conform to the Policy, or items that – in their appreciation – are proper for this venue. An absolute ban would be too sweeping – if a guest speaker wants to write an article about his or her upcoming talk at the Faculty, this should be published (provided the content conforms to the rest of the Policy). I trust either the Editors-in-Chiefs or a Quid Staff Member will propose the actual wording such that the Policy may be changed through the process it outlines.

Immediate Impact: I recommended that the Editors-in-Chief hold off publishing the non-McGill submissions until such a rule change is discussed within the Quid ranks. I realize this does not conform to the policy as written, but I believe the policy is silent on this issue not because the Quid was intended to be a free-for-all, but rather because it was assumed we would not have submissions lacking a sufficient nexus to the Faculty.

While I cannot claim to have read every external submission sent in this regard, it was apparent that some submitters were clearly unaware what the Quid was (i.e. some suggested it was an official publication of the Faculty) or wrote in such a way that the item would not be publishable. This is part of why I think a more restrictive rule is necessary, not every outsider will understand the Quid's role and function nor be aware of Faculty dynamics.

As a related note, I think the case in point in this regard would be last year's Skit Nite review written by a Queen's medical student. While it had a close Faculty link (speaking about our Skit Nite), the tone of the article left a sour taste in many mouths and had elements that were removed prior to publication. I think, had

the author read many issues of the Quid before writing, the tone would have been vastly different. Limiting the Quid to those who read it or encounter it more often I think would maintain the quality of the publication.

Again, to be clear, there is great value to be found in outside voices. However, from a publication standpoint I am not convinced the Quid is ideally suited to carrying all external submissions.

ISSUE: NUMBER OF RESPONSES – RISK OF ATTACK

The Quid's Policy (as the Editors-in-Chief pointed out in last week's Editorial) is designed in part to prevent students from opening the Quid and feeling personally attacked. I doubt Ms. Nova can open this week's Quid and not – in some way – feel personally attacked. Does that mean we silence all critique? Certainly not.

There is a balance to be struck here, and I feel many authors have done a fine job in addressing the underlying issues – racism, the First Nations experience, what qualifies as humour, etc. – purely on the merits, or have written constructive and self-reflexive pieces that give us all food for thought.

The problem I am concerned about here is what is known as 'chilling'. We are, as you know, a submission-driven publication. Students who open this issue and read it as a "smack down" may be less willing to contribute their views and opinions in the future. This is problematic.

That said, I believe it would be more problematic to censor articles for being simply 'one too many' or to ask submitters coming from the same side of an issue to get together and write joint submissions (something that is preferred when it occurs organically).

Recommendation 2: It may be appropriate to consider a "totality" review test for each Quid. Simply put, the Quid Policy is applied article-by-article, but there is no review of the publication as a whole. I do not believe the Editors-in-Chief have erred, but I do think it is important simply to bear this in mind in the future, such that the issue may be changed in terms of layout (such as spacing articles on the same topic apart) or allowing the author to see all pieces and write a partial response in the same week (though this is also problematic). While it's not clear what the result of a totality test might be (even just the decision of the Editors-in-Chief to have a "cooling off period" perhaps) it may be useful to implement this as a safety valve.

Further, and relatedly, having the vast majority of a given Quid on one topic is arguably not ideal for the readership, which I believe seeks some content variety in each issue. Certainly, the Quid cannot force people to submit items or censor what is submitted if it conforms to the Policy, but a totality review may help prevent an issue where the perception is that 99% of content is on one issue. I'm not saying this is the case here, but I could see this happening and think it may be appropriate for the Editors to

have discretion – as a result of a totality review – to perhaps extend the deadline that week to encourage a larger variety of submissions; or, more relevant to a case like this, skip publication that week and facilitate a face-to-face meeting between interested parties. I believe such a "cooling off" period and face-to-face dialogue would be more productive and preferable to a prolonged back-and-forth in our pages. (and I certainly hope Monday's meeting may forge some consensus and the finding of common ground).

All that said, if it remains that students want to continue writing on a given topic – and the submissions conform to the Policy – the Quid must publish what is received.

Immediate Impact: Here, I think the system is working as intended though I believe a totality review would be useful in future. I do worry about the potential for chilling. I also worry that Ms. Nova may feel attacked, but I am confident she will respond (as she did to Mr. Horne) as she sees appropriate. Again, hopefully Monday's meeting will bring this matter closer to some resolution.

I am raising this issue because I do think it is an important one for our readership and continued sustainability as a publication. And, much like not every dispute is appropriate for the legal system, I think it is worth remembering here too that prolonged back-and-forth in our pages is not guaranteed to "solve" problems or bring everyone into agreement; no that a face-to-face meeting is a cure-all either, but I do believe it is vastly preferable. Certainly, reasonable people can and continue to disagree, and certainly the Quid will continue to publish responses to articles.

ISSUE: INITIAL PUBLICATION OF THE CARTOON

Were the Editors-in-Chief correct in publishing the cartoon?

I have to remark here that I find most of this week's issue to be in response to Ms. Nova's response to Mr. Horne. Certainly, had Ms. Nova apologized or simply not written anything, I doubt the pages would be filled with cartoon-related comments this week. I raise this as my starting point because it seems we have moved somewhat away from the core publication question at issue.

The Editors-in-Chief outlined their reasoning in last week's Editorial. While I may have argued the cartoon differently, I think the only conclusion that could be reached under the current Policy is that the item is publishable. Whether the current Policy needs to be changed is a separate discussion I will now address:

Recommendation 3: The Quid Policy be modified to clearly indicate it applies to all submissions, including visual submissions / cartoons.

Right now, the Policy uses "article" in some spots and "submission" in other places. "Submission" should be the standard throughout to remove ambiguity, and it should be noted that a

submission is anything sent for publication, including articles, cartoons, ads, and poems.

Recommendation 4: All cartoons should be sent to a reviewer for initial application of the Policy.

The initial flagging that occurs during the review of articles by reviewers needs to be extended to cartoons, which have traditionally just been inserted either without review or only after a quick check by the Layout Editor or an Editor-in-Chief – and this is usually to make sure the item prints correctly rather than reviewing its content. As such, there isn't a clearly defined process or moment for when a cartoon starts the review process. I would recommend the Editors-in-Chief send the cartoons to reviewers as if they were any ordinary submissions so that potential problems much be caught and addressed sooner. I think this would happen as a matter of course if the previous recommendation were adopted that would treat all submissions alike.

Recommendation 5: The third step of the process – consultation – should specifically include student groups with a tie to the content.

As the Editors-in-Chief noted, the cartoon did not reach the consultation stage. While I can't say for sure whether or not it would have in my estimation (since, in part, it depends on how and by whom it is flagged when and with what warning), if it had gone for consultation, it is not clear that it would have ever been discussed with members of the Aboriginal Law Students' Association. While the actual wording will need to come from someone on Quid staff, I think a sentence along the lines of "The Editors-in-Chief will also consult with relevant student groups tied to the content of a flagged submission" may be useful.

To be clear, there are certainly students upset by the cartoon that are neither Aboriginal nor have ties to the Aboriginal Law Students' Association. My concern is that, as the policy is written, we wouldn't need to reach out to the Aboriginal Law Students' Association when consulting on this content. I think is problematic and should be corrected in the Policy.

Recommendation 6: The content review Policy should include visuals in its factors for consideration.

Right now, the Policy reads that the words are the focus of review (though "tone" is also an element). As such, the only "questionable" word (per the Policy) from the cartoon is "whitey". Though there are questions that can be raised about the word, I don't think its use alone would have been a bar to publication. That said, the depiction and dress used in the cartoon should have been issues for potential consultation, and as such I think the Policy should be clear that visuals are also issues for review.

Immediate Action: While I'm sure some people at the Quid wish

the cartoon had never been published, we can't change history. Further, as the Policy is written, I have difficulty seeing how the item would not be publishable. That said, I think the recommendations outlined above would help give the Editors-in-Chief more pause and allow the cartoon to be signaled sooner, such that a broad consultation would occur or so that the author could be informed there were potential issues with the cartoon and asked if she wished to withdraw or revise it (as The Quid has asked people to do in the past, and most do so without any issues).

I think it would have been more problematic – particularly through a freedom of expression lens – to censor the cartoon and provide a notice to readers that it would not be running. Indeed, only ONE submission has been rejected in the last four years.

I think ideally, and as I see the revised policy working, the matter would have been flagged as problematic through an initial review. The Editors-in-Chiefs would either report this back to the author and encourage consultation on his or her part while holding the piece for the week (usually the Quid informs the author there is a problem and asks them reconsider it rather than rewording something – submissions should be by the author's pen, not those of the Editors). If the matter had gone for consultation, the Aboriginal Law Students' Association surely would have flagged it. The Editors-in-Chief would then have a better sense of the issue and could either ask the author to discuss the cartoon with relevant groups or, if the author insisted on its publication as is, at least be in a better informed place for decision making vis-à-vis publication.

There is always the risk that an item works its way up the Quid chain without being flagged as problematic, or that even when it goes for consultation the prevailing current is that it's fine. I think more eyes seeing the piece – and in particular the addition of student groups to the consultation list – would better prevent this from recurring.

Conclusion: In light of the current situation, several shortcomings of the Quid policy become apparent. I believe the six recommendations I have made are sensible and practical. In terms of importance, I believe adopting the one regarding external submissions is most pressing.

While the initial cartoon appeared publishable under the Policy in place, I believe my proposed changes in this regard - adding more checks and expanding the review process – will allow more time for more reflection and a broader base for consultation. This would allow all parties to be aware of the issues sooner so that appropriate measures may be taken. It is my sincere hope that these changes will benefit you the reader as well as the publication, and would ideally prevent a situation like this from recurring.

As always, I invite your feedback: quid.charlie@gmail.com.



Annie MacDonald Langstaff hrwg Workshop Series gamdp



McGill Centre for
Human Rights and
Legal Pluralism

Hilal Elver

Adjudicating Freedom of Religion and Secularism: The ECHR's New Headache

Nov. 16 | RM 16 OCDH, Faculty of Law, McGill University | 12:30 - 14:00





VINCENT
RANGER

CHRONIQUES FACULTAIRES

Vive les snails!

« Mi-novembre. La pluie envahit Montréal. La fin de session se pointe tranquillement le bout du nez. Les dates de remise de travaux approchent. La pile de choses à faire augmente. Pas le choix. Je dois encore passer ma journée à la bibliothèque. Il faut bien faire ses lectures un jour...

Mais, il est déjà 12 heures. Le stress commence à m'envahir. Mon pas se presse. Nahum Gelber est encore loin. Je monte la rue Peel en ruminant toujours la même inquiétude : vais-je avoir un bureau à la bibliothèque?

J'arrive afin à mon havre d'études et que constatai-je? NON!! Tous les bureaux sont pris. Les snails ont déjà envahi tous les étages !! Ces créatures immondes qui envahissent de plus en plus notre Faculté. Ils sont partout! Que vais-je faire pour étudier tranquille? J'essaie de me frayer un espace entre deux étudiants en économie. Rien à faire. Aucune place! Je m'assois dans les marches de la cage d'escalier. J'enrage contre ces bestioles qui viennent voler mes bureaux à la bibliothèque. Je pleure. Je crie. Je frappe sur les murs. Ma haine envers ces êtres grandit. Pourquoi ne restent-ils pas chez eux ces snails!!

Mais dans ma tourmente, je me perds dans mes pensées. Je me questionne sur l'origine de cette haine viscérale envers les snails. Que m'ont-ils fait? Pourquoi les détestais-je?

Ils viennent peut-être simplement troubler la tranquillité dans ma Faculté à moi? Jamais dérangé par les étudiants du lower campus, je vis ma vie d'étudiant en droit, paisible, sans être importuné.

Mais d'où vient donc cette attitude réfractaire aux autres? Les études à la Faculté de droit de McGill n'étaient pas censées m'ouvrir sur le monde? Me voilà aujourd'hui en train de rager contre le partage d'un espace public avec d'autres étudiants tous aussi égaux que moi. Toujours absorbé dans mes pensées, au beau milieu de la cage d'escalier du Nahum Gelber, je réalise le chemin parcouru. Je réalise qu'idéaliste que j'étais, je suis devenu habitué à avoir mon monde à moi. Un monde où j'ai mon pavillon à moi, jamais dérangé par de vulgaires étudiants en sciences humaines. Un monde où, au bout de la rue Peel, on m'a habitué à ne pas être comme les autres.

Je réalise aujourd'hui que toutes ces années à la Faculté m'ont endoctriné. Elles m'ont habitué à vivre dans un monde isolé du reste du peuple. Un monde où le droit triomphe et où la profession juridique peut se sentir au-dessus de la mêlée.

J'ai mal. Moi qui ai toujours pensé changer le monde, je réalise que je ne fais que reproduire les clivages sociaux. Je constate que nous, étudiants de la Faculté, avons été habitués à regarder de haut le reste de l'Université. Comme si le microcosme universitaire reproduisait les différences de la société. Dès l'université, on nous a habitués à avoir l'impression que nous sommes différents. Nous avons droit à notre pavillon; loin des autres. Nous pensons avoir notre bibliothèque à nous. Nous rechignons, lorsque d'autres étudiants, aussi égaux que nous, viennent simplement étudier dans un endroit qui leur appartient autant que nous. À ce moment, je sors tout d'un coup de ma torpeur. Soudainement, je comprends! Les snails qui m'envahissent ne sont pas que

de simples étudiants. Ce sont des combattants! Ils luttent! Ils luttent contre ces juristes qui se croient propriétaires de tout! Contre ces étudiants en droit qui pensent pouvoir s'approprier une bibliothèque pourtant financée par des fonds publics.

Je sors alors immédiatement de ma cage d'escalier pour aller à leur rencontre. N'hésitant pas une seule seconde, je grimpe sur les tables de travail au milieu du 3e étage et je crie :

"Snails de tous les pays, unissez-vous! J'ai compris votre lutte. Derrière votre regard indifférent, vous protestez! Alors que certains occupent Montréal, New York ou Vancouver, vous, vous venez occuper la bibliothèque de droit. Vous refusez de laisser les étudiants s'approprier un endroit qui ne leur appartient pas. Quel courage!"

Je quittai alors la bibliothèque, serein. Ces bolchéviques des temps modernes posaient un acte simple, mais puissant. Jamais je n'avais réalisé que de traîner un livre de biologie et d'aller sur Facebook pendant deux ou trois heures pouvait être aussi lourd de sens. Derrière son regard vide et son indifférence, le snail lutte contre la stratification sociale. Au lieu de clamer haut et fort son indignation, il prend tranquillement une place, là où l'élite la lui croyait réservée. Poursuis ton combat snail. Un jour, tu obtiendras une société sans classe. »

De la démocratie

À moins que vous soyez sourd et aveugle, vous avez constaté comme moi l'effervescence politique qui se déroule à

la Faculté. De semaine en semaine, les pages du Quid regorgent de débats sur la grève des employés de soutien. Je n'ai pas l'intention d'écrire directement sur ce sujet. Tout a été dit, et tout sera redit.

Par contre, je suis agréablement surpris de voir ce débat se tenir. Alors que plusieurs clament à la division de notre Faculté, moi, je constate qu'il est tout à fait sain d'avoir des débats, même s'ils sont parfois vigoureux. On étudie et décortique ces nombreux jugements sur la liberté d'expression, alors pourquoi ne pas la mettre en action!

Mais ce qui me réjouit le plus ces jours-ci c'est l'attitude du LSA. Il y a à peine plus d'un mois, l'exécutif du LSA avait discuté de la question des frais de scolarité et de la grève de MUNACA. À quelle conclusion était-il arrivé? Réticence à s'opposer à la hausse de frais de scolarité et neutralité sur la grève de MUNACA.

Depuis ce jour, beaucoup d'eau a coulé sous les ponts. Le LSA a tenu, début octobre, une rencontre pour discuter des frais de scolarité avec les étudiants intéressés. Le LSA Council a adopté une

résolution pour rester neutre face à la grève.

Où veux-je en venir? Au fait qu'aujourd'hui, malgré ce qu'il souhaitait au départ, le LSA nous transmet des informations sur la grève de MUNACA. Au fait que, la semaine dernière, nous avons manifesté contre l'augmentation des frais de scolarité. Tout ça pour quoi? Parce que le LSA a discuté de ces questions en assemblée générale et que, collectivement, nous avons pris des décisions. Les décisions n'étaient pas nécessairement celles que voulait le LSA, mais qu'importe. Ils les ont respectées. Ça peut sembler bizarre de le souligner, mais, dans l'état actuel de la démocratie au Québec, c'est toujours rassurant de voir que certaines personnes respectent la volonté majoritaire. Malgré l'opposition profonde de l'exécutif à prendre position sur la question de la grève, il nous tient au courant par le biais des courriels sur les actions et manifestations à venir. C'est l'attitude normale à prendre. Je ne sais pas pourquoi, mais, ces jours-ci, je trouve que c'est un comportement qui mérite d'être souligné.

La politique des examens

Avez-vous lu comme moi le rapport de nos conseillers facultaires la semaine dernière dans le Quid? On y apprend en page 17 que la Faculté s'apprêterait à modifier sa politique d'évaluation, et ce, sans consulter les étudiants?!?! Y a-t-il seulement moi qui trouve qu'il s'agit d'un élément fondamental de la vie académique? Est-ce normal que, sur ce sujet, nos représentants étudiants ne soient pas consultés? J'espère que la Faculté remédiera rapidement à ça et consultera nos représentants sur toute question qui modifierait la politique d'évaluation. Ça me semble le minimum à faire!

CLA-ACE INTERNSHIP INFO & TRIVIA NIGHT

Prenez une pause de vos études et pensez à l'été. Canadian Lawyer's Abroad - Avocats canadiens à l'étranger McGill is again hosting the CLA-ACE Internship Info & Trivia Night

Who: You and your friends

What: Learn about CLA-ACE, the summer internship program, and have some fun with a round of trivia

Where: Thomson House

When: Tuesday, November 15th, 6:00-7:30 pm

Why: Proceeds will support McGill students who are selected to intern with CLA-ACE's summer internship program

How: All you need bring is a toonie and your trivia skills!

JÉRÉMY
BOULANGER
BONNELLY

UNE RÉPONSE À FRANCESCA TADDEO

Chère Mlle Taddeo,

Malgré l'affirmation du contraire, vous avez adopté une voie personnelle dans votre dernier article, et c'est pourquoi je vous réponds sous forme de lettre. Tout d'abord, je tiens à vous dire que vos arguments sont intéressants et portent à réflexion. Je crois cependant que vous avez mal interprété mon texte, déviant ses arguments pour me faire dire des choses qui ne reflètent pas ma pensée. Si cela est le résultat de mon expression déficiente, alors *mea culpa*, mais je crois qu'il est essentiel de rétablir ici mes propos.

J'apprécie grandement que vous nous rappeliez que la liberté d'expression est brimée dans d'autres pays de façon majeure et certainement beaucoup plus grave qu'ici. Vous affirmez que les actions de MUNACA sont une insulte à ceux qui se battent vraiment pour leur liberté d'expression dans d'autres pays. Est-ce à dire que la liberté d'expression n'est pas ici brimée ? Je ne le crois pas. En cette matière, comme en beaucoup d'autres, rien n'est blanc ou noir. La liberté d'expression qui a été bafouée à McGill est certes moins en péril que celle en Syrie, par exemple, mais elle reste tout de même bafouée et elle a été chèrement acquise au terme de plusieurs luttes historiques. Il ne faudrait certainement pas la prendre pour acquise, au risque de la perdre, et c'est une lutte quotidienne qu'il faut à mon sens continuer.

Vous répliquez également qu'un double standard s'applique aux travailleurs de MUNACA, dont ceux qui s'opposent à la grève seraient bâillonnés. La mesure de « you must participate in strike activities in order to get strike pay » est toutefois

cohérente avec les principes syndicaux de base. La grève a été obtenue par un vote démocratique tenu dans les règles et, à partir de ce moment, les travailleurs sont tenus d'agir en solidarité les uns avec les autres pour atteindre leurs objectifs communs, bien que de façon personnelle, les membres puissent faire part de leurs dissidences au sein de l'association. Qu'on soit en accord ou non avec cette façon de faire, il reste qu'elle est essentielle pour assurer la cohésion de tout mouvement syndical.

En ce qui a trait à ma demande d'être retiré de la liste d'envoi des courriels de l'administration, il convient de remettre les choses en perspective. J'ai auparavant demandé à l'administration à plusieurs reprises de modifier le ton de leurs communications pour être davantage objectifs, ou même de simplement indiquer dans leurs courriels que l'information qui y est présentée est biaisée. Après avoir reçu plusieurs refus, j'en suis venu à la conclusion que le seul moyen qu'il me restait pour affirmer mes revendications était de demander à être retiré de la liste.

Il est vrai que je n'avais pas à lire les courriels, personne n'y est forcé. De la même façon, lorsque quelqu'un se fait insulter sur les ondes d'une radio, par exemple, il n'est pas tenu d'écouter les propos qui lui sont préjudiciables. Il peut effectivement décider de ne pas agir et de paisiblement laisser passer l'injure. Dans ce cas-ci, j'ai considéré que les informations relayées par l'administration pouvaient être préjudiciables pour MUNACA et j'ai donc décidé de m'y opposer plutôt que d'observer en silence. On pourra certainement m'accuser d'être trop activiste, tout dépendamment du

point de vue que l'on adopte sur la grève et sur les courriels de l'administration, mais je préfère agir au risque de déplaire à certains, afin de respecter et défendre mes convictions.

Vous affirmez de plus que tout étudiant qui veut ne plus recevoir de courriels biaisés devrait ne pas avoir d'opinion sur le conflit. Je n'ai jamais dit que l'unique source d'information était les courriels que nous recevons. Je m'informe quotidiennement dans plusieurs sources journalistiques locales, régionales et provinciales, espérant ainsi avoir accès à une information impartiale qui me permet de me forger ma propre opinion. Mes critiques concernant les courriels révélaient plutôt une critique plus générale sur l'inégalité des forces dans l'ensemble de ce conflit, qui me semblait tout à fait inappropriée dans le domaine des communications. Nous avons passé l'ère du patronat-tout-puissant et je crois que l'avantage que l'administration obtient en utilisant des listes de courriels a priori destinées à un usage purement académique et administratif porte préjudice à MUNACA.

Finalement, vous énoncez que l'administration « works so hard to provide its students with an environment in which they can thrive and receive a world-class education ». De ce fait, vous semblez ignorer complètement le travail acharné que les employés de soutien procurent aux étudiants pour assurer cet environnement. Je n'ai en effet pas bénéficié d'un diplôme de premier cycle à McGill, mais mon expérience dans les établissements post-secondaires québécois me permet d'affirmer avec assez de justesse, je crois, que j'ai toujours reçu davantage d'aide et

mpagnement des employés de que de l'administration au cours de ides. Bien sûr, l'administration joue important également, mais il ne t pas diminuer l'apport des employés ien, ce que vous semblez reusement faire tout au long de ton

téressant de noter, en terminant, que rs étudiants de l'université ont

manifesté comme moi leur désaccord en lien avec les courriels de l'administration. J'ai été ravi, peu de temps après, de recevoir des courriels clairs, précis et objectifs de M. Di Grappa, qui correspondaient en tous points à ce que j'avais demandé. Ainsi, peu importe les arguments que l'on peut invoquer dans ce passionnant débat, il n'en reste pas moins que nos officiers semblent avoir reconnu leur faute et l'avoir corrigée. C'est très honorable de leur part et, sur ce point, je les

en remercie.

Je vous remercie donc sincèrement de m'avoir donné l'occasion de clarifier ma pensée, je l'espère, et vous invite à poursuivre le dialogue lorsque nous nous croiserons à la faculté. Après tout, c'est bien souvent du débat qu'émanent les meilleures idées.

Jérémy

Criminal Law McGill/Droit Criminel McGill

JOANNIE
JACOB

SPEED-MEET 2011



CRIMINAL LAW MCGILL
DROIT CRIMINEL MCGILL

On Tuesday November 1st, from 6 to 8pm, the Atrium was animated by the presence of thirty and some students, three judges, one Commissaire à la déontologie policière, two federal prosecutors, three provincial prosecutors, one municipal court prosecutor, 3 private defense lawyers, and one legal aid lawyer. All of these wonderful people were brought together to attend the second edition of the Criminal Law McGill 6 to 8 Speed-Meet Event. This event was aiming to offer a networking opportunity for McGill students interested in criminal law, and a chance for them to ask questions about the specific experiences of various criminal law practitioners in an accessible environment. The activity had received great feedback last year and it was a success again this year, slowly establishing it as a new tradition at McGill.

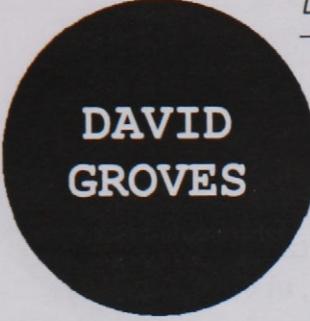
Le succès de cet événement est dû, selon moi, à deux facteurs principaux. Premièrement, la générosité des individus travaillant en droit criminel à Montréal. Ceux-ci démontrent une passion pour leur travail qui est fort inspirante et ils n'ont pas hésité à donner de leur temps pour partager leur expérience avec les étudiants. Deuxièmement, un grand nombre d'étudiants à McGill sont intéressés ou curieux envers le droit criminel. Bien que la faculté de droit de McGill

n'ait jamais été connue comme étant très portée vers le droit criminel, je crois que l'importance de cette matière est de plus en plus reconnue à la faculté, comme le démontre le nombre accru de cours en droit criminel qui sera offert en hiver 2012. De plus, l'intérêt des étudiants a permis de faire de Droit Criminel McGill un groupe avec une équipe exécutive dévouée (Chelsea Moore, Louis-Nicolas Gauthier, Rowan Kunitz et moi-même) et un grand nombre de membres étudiants.



Thank you to all the guests who came: The Honorable Patrick Healy, The Honorable Allan Hilton, The Honorable Richard Starck, Me Shadley Battista, Me Me Robert Israel, Me Isabelle Haché, Me Nathalie Pépin, Me Isabelle Schurman, Me Geneviève Boutet, Me Anne-Marie Manoukian, Me Marie-Claire Emond, Me Rachel Pitre, Me Maurice Cloutier and Me Dennis Galiatsatos. Thank you as well to Dean Jutras who came to the event.

Criminal Law McGill is a new student group dedicated to promoting and engaging student interest in criminal law, and to increase contact between McGill law students and local criminal practitioners. If you are interested by our events, send us an e-mail to join our mailing list: clm.dcm@gmail.com.



DAVID
GROVES

THE OMNIBUS CRIME BILL IS A MESS (BUT DON'T TAKE MY WORD FOR IT)

A couple of days ago, I was lecturing my roommate about Stephen Harper's omnibus crime bill, C-10 (or the Safe Streets and Communities Act), and how thoroughly miserable it is. I deplored the expansion of mandatory minimums and how they force judges to hand out punishments they may object to, about how the automatic sentence handed out to marijuana growers under the new law is actually harsher than the one handed out to pedophiles, and about how the bill lengthens and harshens prison terms on pretty much any Canadian citizen who winds up in jail. My roommate listened politely, thought about it for a second, and then archly told me that, for a guy in his third month of law school, I certainly seem to know a lot about criminal law.

I got the hint. He's right – I can admit that two and a half months of law school does not qualify me to pronounce on whether or not C-10 is a disaster. So don't take my word for it. Here is a list of people who know a lot more than I do and also think that the Safe Streets and Communities Act is a mess:

1. Statisticians: Justice Minister Rob Nicholson has stated that C-10 is an urgent counter to the growing threat of crime across the country (especially among "out-of-control young people"), but, this July, Statistics Canada announced that our national crime rate is at its lowest level since 1973, continuing a 20-year downward trajectory. If there's a countrywide emergency taking place, the data isn't showing it.

2. Victims' Rights Advocates: The Harper government has claimed that C-10 will ensure justice and support for victims of crime. Writing in the National Post,

however, Steve Sullivan, executive director of Ottawa Victim Services, stated that "There is no evidence that the billions the [federal and provincial] governments are going to spend on this crime agenda will enhance justice for victims." Of the few provisions within the bill that mention victim's rights, the majority were first introduced in 2005 by the Liberals. If anything, the harsher and more rigid enforcement demanded by C-10 will overburden the justice system and lead to slower, more inefficient case resolution.

3. Judges and Lawyers: B.C. Supreme Court Judge Robert Bauman has publicly noted that C-10 will put a significant strain on both Canada's courts and prisons. Echoing that, Jamie Chaffe, president of the Canadian Association of Crown Counsel, stated that the justice system cannot handle the increased workload the bill will inevitably generate. As a result, the bill will lead to more plea bargains, more dropped charges, and far less efficiency.

4. The U.S. Drug Enforcement Agency: In the United States, 1 in 100 people are currently incarcerated, each at a cost to the government of \$18,000-\$50,000 a year. Asa Hutchinson, a former head of the DEA under George W. Bush, has already warned Parliament not to follow in America's footsteps, specifically when it comes to mandatory minimums and the imposition of stricter rules for parole eligibility. The result, from his experience, will be a greatly increased prison population, higher costs to manage the penal system, and less fairness in the treatment and rehabilitation of non-violent offenders.

5. Prison Guards and Experts on the Penitentiary System: As Hutchinson pointed out, the burden of all these longer and harsher sentencing strategies will ultimately be placed on the correctional system. Howard Sapers, the Correctional Investigator for Canada (a prison watchdog/policy review agency), pointed out that penitentiaries across the country are already overcrowded and, until new prisons are operational, the bill will only aggravate the current crisis. Overcrowding, Saper notes, "undermines nearly everything that can be positive or useful about a correctional environment." It promotes violence and disease transmission, and limits the efficacy of rehabilitative training programs. The Union of Correctional Officers has also been critical of the potential for overcrowding, something that makes their work considerably more dangerous.

6. Ontario, Québec, Newfoundland, and Prince Edward Island: The Canadian corrective system is split between federal and provincial authorities, with the provinces housing anyone with a sentence of less than two years. While the expansion of mandatory minimums under C-10 will move some offenders into federal prisons, several provincial governments have recognized that they, too, will be facing a flood of new prisoners to pay for, but with no federal compensation. Québec was the first to refuse to pay for these new costs, with Provincial Justice Minister Jean-Marc Fournier calling the bill a "Band-Aid solution" that is expensive, cumbersome, and with little benefit.

Lesson learned – when in doubt, turn to an expert. Better yet, several! Hopefully, someday, Harper will do the same.

LIBRARY NEWS

NEW! Rare Books Room Tours Offered

If you would like to know what kind of treasures are kept in the glass-enclosed Rare Books Room on the second floor of the Law Library, sign up for a half-an-hour tour of the Law Rare Books. Tours will take place on Fridays at 12:00. To sign up for a tour please send a request to Svetlana Kochkina, svetlana.kochkina@mcgill.ca, and we will notify you when we will have a necessary number of participants.

Question – Answer

-Do you have any language dictionaries in the Law Library?
-We have plenty of them: first, in the Reference collection on the ground floor; second, at the dictionary stands on 3rd, 4th, and 5th floors; third, in the regular collection, mostly in the P section (3rd floor).

More about dictionaries (and exams)

According to my observations last year, many students realize that they need a PAPER language dictionary half-an-hour before their open book exam starts. One day last year, we counted more than 20 students asking for French-English dictionaries (which were all gone by that time). The last dic-

tionary to be checked out the day before was published in 1946, but the student who got it was delighted to have even that not-so-up-to-date dictionary. To avoid getting into a similar situation this year, you could either buy a PAPER French-English/ English-French dictionary that you can use for all your open book exams in Law School, and for many years to come after you graduate, or borrow one from any of the McGill Library branches several days before your open book exam.

New books stands moved

We have made some minor changes in our space arrangement at the ground floor of the Library, and the stands with new books have changed their location. They are still on the ground floor of the library, close to the right-hand corner of the glass wall.

In this column, we would be delighted to answer all your library services related questions. Please send your questions to Svetlana Kochkina svetlana.kochkina@mcgill.ca, Liaison Librarian Nahum Gelber Law Library.

RAPPEL : ENVOYEZ-NOUS VOS ARTICLES !

Deadline is next Thursday at 5 pm.

Important: include your name and year of study *in the body of the Word document.*



LAST ISSUE IN 2011!

OVERHEARD AT THE FAC

1L, on Remembrance Day: It was a wild coffeehouse last night. I lost my poppy.

1L: I still like law school.

3L: GIVE IT TIME TO RUIN YOU.

3L: Don't you miss that trans-systemic beer?

3L: You're joking... right? I've tasted coursepack pages with more flavour.

3L: It sucks the Faculty only recognizes academics with a gold medal - Jonny Asselstine really needs a brophy. That's right - a trophy for being a bro.

1L: Of course he would have a non-law girlfriend! Argh, I hate my life!

2L: I sometimes feel like we should get press coverage since we're basically the 'Occupy Nahum Gelber' movement...

4L: Who are these people? No. For real. WHO ARE THESE PEOPLE?

Prof. Jutras: Hier, mes filles regardaient Occupation Double. Elles parlaient du triangle entre Dave, Odile et Christelle... On aurait pu utiliser ces noms pour le problème, mais on va en rester à des lettres.

Prof. Jutras: Appelez vos amis de Regina et Windsor pour leur dire que vous êtes libres : le code n'est pas une cage!

Prof. Jutras: La banque dit: "Tigidou!" Ça arrive pas souvent que la banque dise "tigidou"...

Prof. [redacted]: You created this constituency of cows and you can't get rid of it...

Prof. Leckey: Death is always a reliable way to get out of a civil union.

Prof. Adams, *re: nervous shock and required relational proximity*: Don't ever kill anyone at a family reunion.

Prof. Adams: Nothing says "Come to the table" like a 5-million dollar lawsuit !

SEND YOUR OVERHEARDS!
quid.overheard@gmail.com



